

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

BRIAN SAUERWINE,
Plaintiff,

v.

GAVIN P. HALIHAN,
Defendant.

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CIVIL ACTION NO. 20-CV-2709

ORDER

AND NOW, this 23rd day of June, 2020, upon consideration of Brian Sauerwine's Motion to Proceed *In Forma Pauperis* (ECF No. 1), Prisoner Trust Fund Account Statement (ECF No. 3), and *pro se* Complaint (ECF No. 2), it is **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED** pursuant to 28 U.S.C. § 1915.
2. Brian Sauerwine, #HG-7668, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court directs the Superintendent of SCI-Retreat or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Sauerwine's inmate account; or (b) the average monthly balance in Sauerwine's inmate account for the six-month period immediately preceding the filing of this case. The Superintendent or other appropriate official shall calculate, collect, and forward the initial payment assessed pursuant to this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in Sauerwine's inmate trust fund account exceeds \$10.00, the Superintendent or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to Sauerwine's inmate account until the fees are paid. Each payment shall refer to the docket number for this case.

3. The Clerk of Court is directed to **SEND** a copy of this Order to the Superintendent of SCI-Retreat.

4. The Complaint is **DEEMED** filed.

5. Sauerwine's Complaint is **DISMISSED WITH PREJUDICE** for failure to state a claim, pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for the reasons stated in the Court's Memorandum.

6. The Clerk of Court shall **CLOSE** this case.

BY THE COURT:

/s/Joel H. Slomsky, J.
JOEL H. SLOMSKY, J.